

LIFE IS GOOD, INC. V. LG ELECTRONICS U.S.A., INC
Civil Action No. 04 11290 WGY

DECLARATION OF TIMOTHY LEMPER IN SUPPORT OF DEFENDANTS' MOTION IN LIMINE
TO EXCLUDE ARGUMENT AND EVIDENCE ON DEFENDANTS' INTENT

Exhibit 4

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1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

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4 LIFE IS GOOD, INC.,

5 Plaintiff, Civil Action

6 vs. No. 04-cv-11290-REK

7 LG ELECTRONICS, U.S.A., INC.,

8 LG ELECTRONICS MOBILECOMM

9 U.S.A., INC., (formerly

10 LG INFOCOMM U.S.A., INC.),

11 Defendants.

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13 RULE 30(b) (6) VIDEOTAPED DEPOSITION of Life is

14 good., Inc., represented by Albert A. Jacobs, a

15 witness called by and on behalf of the Defendants,

16 taken pursuant to the provisions of the Federal

17 Rules of Civil Procedure, before Dana Welch, a

18 Registered Professional Reporter and Notary Public

19 in and for the Commonwealth of Massachusetts, at the

20 offices of Finnegan, Henderson, Farabow, Garrett

21 & Dunner, LLP, on Thursday, October 13, 2005,

22 commencing at 9:36 a.m.

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1 you not to answer. If it's for some independent 03:02:17
2 reason -- 03:02:20
3 THE WITNESS: That's exactly why. 03:02:20
4 BY MR. SOMMERS: 03:02:22
5 Q Does it have to do with a fact? 03:02:22
6 A No. It has to do with a question I want to ask my 03:02:23
7 attorneys in confidence. Are you comfortable with 03:02:27
8 that? 03:02:41
9 Q I don't know the nature of it, and no, I'm not 03:02:43
10 comfortable with it. But as a courtesy to you, 03:02:45
11 I'll withdraw the question. 03:02:48
12 A Thank you. 03:02:50
13 Q Mr. Jacobs, does -- is it -- let me strike that. 03:03:11
14 Is -- is it your company's contention 03:03:27
15 that LG adopted its "life's good" tag line for 03:03:29
16 purposes of trading off the good will of your 03:03:36
17 company? 03:03:40
18 A I have no idea and can't really speak to that. I 03:03:41
19 have no idea why they started it. 03:03:45
20 Q So am I correct that you would have no facts to 03:03:47
21 indicate that LG adopted the words "life's good" to 03:03:52
22 trade on the good will of your company? 03:03:59

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1 A That's correct. 03:04:01

2 Q Would that also be the case, that you have no facts 03:04:03

3 to indicate that LG adopted its "life's good" tag 03:04:08

4 line to trade off the selling power of your 03:04:13

5 company's brand? 03:04:17

6 A Do I have any facts to indicate that they created 03:04:18

7 that -- what did you call it? 03:04:25

8 Q Tag line. 03:04:29

9 A That tag line to benefit from -- 03:04:30

10 Q To trade off the selling power of your slogan. 03:04:35

11 MR. KIRBY: Why don't -- why don't I 03:04:40

12 suggest you start that question again, Mark. The 03:04:42

13 record is going to be a jumbled mess. 03:04:45

14 MR. SOMMERS: Yeah. 03:04:47

15 BY MR. SOMMERS: 03:04:47

16 Q Mr. Jacobs, I'm just trying to learn, do you have 03:04:48

17 any facts that indicate that LG adopted its tag 03:04:51

18 line "life's good" for purposes of trading off the 03:04:56

19 selling power of your company's use of Life is 03:05:02

20 good.? 03:05:06

21 A Okay. I guess I'll repeat my answer. I have no 03:05:06

22 idea why "life's good" chose to use -- why LG chose 03:05:12

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1 to use "life's good" in association with its brand. 03:05:17

2 Q Okay. And am I also correct that you would have no 03:05:20

3 facts to indicate that it did so to trade off your 03:05:25

4 good will? 03:05:29

5 A That's correct. 03:05:30

6 Q Okay. Or trade off the selling power of your 03:05:31

7 company? 03:05:34

8 A Yeah. I have no idea why. 03:05:35

9 Q Okay. Or that it did so for purposes of boosting 03:05:38

10 its own sales? 03:05:51

11 A I -- I would -- I would venture to guess that they 03:05:52

12 created that in hopes of boosting their sales, 03:05:55

13 certainly. 03:06:01

14 Q I guess I meant off the backs of your hard labor. 03:06:01

15 A Off the backs of -- yeah, I would have no facts or 03:06:04

16 ideas to indicate that they did so to -- to benefit 03:06:07

17 off of our -- our brand. 03:06:11

18 Q Mr. Jacobs, can you tell me, have -- has your 03:06:13

19 company lost any customers or sales or business as 03:06:36

20 a result of LG's use of the "life is good" -- 03:06:48

21 "life's good" tag line? 03:06:55

22 A I would have no way of knowing. 03:07:04